HON'BLE SRI JUSTICE J. CHELAMESWAR
AND
HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.12986 of 2006

Date: 17-07-2006

Between:

M/s. Avaneesh Associates,
Vijayawada, rep.by its Proprietor
Vallampalli Srinivasa Rao.

…Petitioner.

And

The Joint Commissioner of
Commercial Taxes (Legal),
O/o.the Commissioner of Commercial Taxes,
M.G. Road, Nampally,
Hyderabad and others.

… Respondents.

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O R D E R : (Per Hon'ble Sri Justice J. Chelameswar)

The writ petition is filed with the prayer as follows:-

> "For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref.No.LV(2)/590/2006, dated 24-5-2006 dismissing the stay petition filed by the petitioner firm for assessment year 2003-04 as illegal, arbitrary, improper, unjust and without application of mind as it amounts to collection of tax more than 12% and that too from two dealers in view of the revisions/proceedings issued by the revisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of the Sales Tax Appellate Tribunal and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case."

The petitioner is a Proprietary concern carrying on the business in distribution and sale of bottled soft drinks and a registered dealer under the provisions of the A.P. General Sales Tax Act on the rolls of the third respondent herein. For the Assessment Year 2003-2004 the

petitioner was assessed by the third respondent by his proceedings dated 22-12-2005. Aggrieved by the said assessment, the petitioner carried the matter in appeal before the second respondent herein, and during the pendency of the appeal, sought stay of recovery of the disputed tax, which is the subject matter of the appeal. The second respondent by his proceedings dated 20-2-2006 rejected the stay application of the petitioner. The petitioner challenged the same unsuccessfully before the first respondent by way of revision. The first respondent by order dated 24-5-2006 rejected the revision of the petitioner against the interlocutory order of the second respondent. Hence the present writ petition.

Heard learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage directing the respondents not to recover the disputed amount of tax due from the petitioner pending the appeal of the petitioner before the second respondent on condition of the petitioner deposits
fifty percent of the disputed amount of tax, within a period of
four (4) weeks from today. The amount already paid, if any, shall be given credit to while computing 50% of the tax.

The writ petition is accordingly disposed of.

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(J. CHELAMESWAR, J)

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(D.APPA RAO, J)

17-07-2006.
Msr.

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